

United States District Court

FILED

NORTHERN

DISTRICT OF

2008 SEP 2 P 12:17
CALIFORNIA

UNITED STATES OF AMERICA

V.

CRIMINAL COMPLAINT

Delfino NAVARRO-Cupa

08-70582

15

CASE NUMBER:

(Name and Address of Defendant)

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On a date unknown but no later than, August 11, 2008, in Santa Clara County in the Northern District of California defendant(s)

Unlawfully re-entered and was found in the United States after deportation, without the permission of the Attorney General

in violation of Title 8 United States Code, Section(s) 1326
I further state that I am a(n) Deportation Officer and that this complaint is based on the following facts:
Official Title

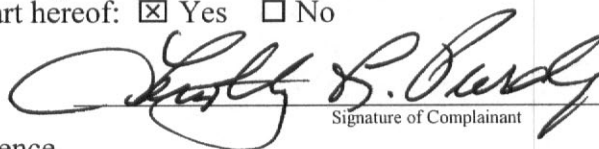
SEE ATTACHED AFFIDAVIT

PENALTIES: \$250,000.00 fine, twenty years imprisonment and \$100.00 special assessment fee and a Term of Supervised Release up to three years.

Requested bail: Issue no bail warrant.

APPROVED AS TO FORM: _____

ASSISTANT UNITED STATES ATTORNEY

Continued on the attached sheet and made a part hereof: ☒ Yes ☐ No
Signature of Complainant

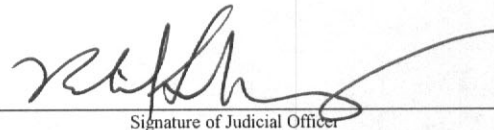
Sworn to before me and subscribed in my presence,

9/2/08
Date

at

San Jose, California
City and State

Richard Seeborg
UNITED STATES MAGISTRATE JUDGE
Name & Title of Judicial Officer


Signature of Judicial Officer

RE: Delfino NAVARRO-Cupa

A 73 882 890

I am a Deportation Officer of the United States Department of Homeland Security, Immigration and Customs Enforcement (ICE). I have been employed by this agency, U.S. Customs & Border Protection and the former Immigration and Naturalization Service (INS), since October 1, 2002. I am currently assigned to the Criminal Alien Program at the San Jose, California Sub-Office. In such capacity, I have reviewed the official immigration "A-File" relating to the above named defendant, which attests to the following:

- (1) The DEFENDANT, Delfino NAVARRO-Cupa (A#73 882 890), is a (49) year-old married male whose Date of Birth is currently understood to be both: August 20, 1959 and July 7, 1964. He is a citizen and native of Mexico as substantiated by sworn statements made to that effect by the DEFENDANT on the following dates: August 17, 1999, October 25, 2001 and August 13, 2008;
- (2) The DEFENDANT has been assigned Alien Registration number of A 73 882 890, FBI number of 545196MA8, California Criminal State ID Number of CA09569854 and PFN Number CUZ966;
- (3) The following are the Deportation/Removal dates for this DEFENDANT:
 - April 27, 1995, at the Nogales Port of Entry
 - January 10, 1996, at the Calexico Port of Entry
 - December 3, 2001, at the Calexico Port of Entry
- (4) On December 10, 1990, the DEFENDANT (using the ALIAS Delia GUADALUPE-Avalos) was convicted in the Superior Court of California/County of Santa Clara, of the following offense: POSSESSION OF DESIGNATED CONTROLLED SUBSTANCES: COCAINE, a felony, in violation of California Health and Safety Code, Section 11350, for which the DEFENDANT was sentenced to (8) months in jail. This offense is defined as an aggravated felony under Title 8, United States Code, Section 101(a)(43)(B);
- (5) On October 1, 1992, the DEFENDANT was convicted in the Superior Court of California/County of Santa Clara, of the following offense: POSSESSION/PURCHASE FOR SALE – COCAINE, a felony, in violation of California Health and Safety Code, Section 11351, for which the DEFENDANT was sentenced to (5) years in jail. This offense is defined as an aggravated felony under Title 8, United States Code, Section 101(a)(43)(B);

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- (6) On June 21, 1999, the DEFENDANT was convicted in the Superior Court of California/County of Santa Clara, of the following offenses: POSSESSION/PURCHASE FOR SALE – COCAINE, a felony, in violation of California Health and Safety Code, Section 11351 and POSSESSION/PURCHASE FOR SALE – METHAMPHETAMINES, a felony, in violation of California Health and Safety Code, Section 11378, for which the DEFENDANT was sentenced to (5) years in jail. This offense is defined as an aggravated felony under Title 8, United States Code, Section 101(a)(43)(B);
- (7) On January 16, 2007, the DEFENDANT was convicted in the Superior Court of California/County of Santa Clara, of the following offense: DRIVING UNDER THE INFLUENCE OF ALCOHOL, a misdemeanor, in violation of California Vehicle Code, Section 23152(B), for which the DEFENDANT was sentenced to (6) days in jail. This DEFENDANT violated the probation he was placed on in lieu of this conviction on March 13, 2007 and was sentenced to (5) additional days in jail;
- (8) On August 8, 2008, the DEFENDANT was convicted in the Superior Court of California/County of Santa Clara, of the following offense: DRIVING WITH A SUSPENDED LICENSE, a misdemeanor, in violation of California Vehicle Code, Section 14601.2(A), for which the DEFENDANT was sentenced to (25) days in jail.
- (9) The DEFENDANT, on a date unknown, but no later than August 11, 2008, in Santa Clara County in the Northern District of California, was found to be unlawfully present in the United States, after prior arrests and removals/deportations, without the permission of the Attorney General or the Secretary of Homeland Security, in violation of Title 8, Section 1326. On August 13, 2008, the DEFENDANT was interviewed by Immigration Enforcement Agent David Vargas at the Santa Clara County Jail. During the interview, the DEFENDANT was read his **Miranda** rights in the Spanish language. The DEFENDANT declined to invoke his **Miranda** rights and provided a written sworn statement attesting to his alienage as both: a Mexican citizen and national;
- (10) The DEFENDANT'S official A-File does not contain any record or indication that he either requested or received permission from the Secretary of the Department of Homeland Security or the Attorney General of the United States to reenter the United States;
- (11) On August 13, 2008, the DEFENDANT'S fingerprints were taken as part of the standard booking procedures. A latent print examiner at the Santa Clara County Sheriff's Department compared those fingerprints with fingerprints of Delfino NAVARRO-Cupa (A# 73 882 890) on official documents in his Administrative File. The latent print examiner determined that the fingerprints were identical.

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A 73 882 890

- (12) Based on the above stated information, this Officer believes there is sufficient probable cause that the Defendant is present within the United States in violation of Title 8, United States Code, Section 1326.



Timothy F. Purdy
Deportation Officer

Immigration and Customs Enforcement

Subscribed and sworn to before me this 2nd day of September, 2008



Richard Seeborg

UNITED STATES MAGISTRATE JUDGE